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Return Date & Time:  
FEBRUARY 15, 2017 9:30 AM

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X Chapter 13 Case No: 115-45600-NHL  
IN RE:

JOHN MARTIN,

Debtor.

NOTICE OF MOTION

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PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Nancy Hershey Lord, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York, Courtroom 2529 on FEBRUARY 15, 2017 at 9:30 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. Section 1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York  
January 24, 2017

/s/ Marianne DeRosa  
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MARIANNE DeROSA, TRUSTEE  
125 JERICHO TPKE, SUITE 105  
JERICHO, NEW YORK 11753  
(516) 622-1340

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

tmd3574/db

IN RE:

FEBRUARY 15, 2017  
9:30 AM

JOHN MARTIN,

Chapter 13 115-45600-NHL

Debtor.

APPLICATION

X

TO THE HONORABLE NANCY HERSHY LORD, U.S. BANKRUPTCY JUDGE:

Marianne DeRosa, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on December 14, 2015, and, thereafter, Marianne DeRosa was duly appointed and qualified as Trustee.
2. The Debtor's proposed Chapter 13 Plan, (hereinafter "The Plan"), dated March 2, 2016 filed with the Court on March 15, 2016, and reflected in the Court's docket as number 24 provides for a monthly Plan payment of \$400.00 per month for a period of 60 months. Additionally, The Plan provides for full repayment to all filed secured and priority proofs of claim, as well as a pro rata distribution to general unsecured proofs of claim.
3. As of the date of this motion, the Debtor has failed to:
  - a. comply with 11 U.S.C. §1325(a)(6) in that the Debtor has not submitted timely Chapter 13 plan payments to the Trustee, and is \$900.00 in arrears through and including January 2017.
4. The Plan cannot be confirmed and as a result a delay has occurred that is prejudicial to the rights of creditors. The case must be dismissed under 11 U.S.C. § 1307(c)(1) and (c)(5).
5. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order denying confirmation and dismissing this Chapter 13 case and such other and further relief as may seem just and proper.

Dated: Jericho, New York  
January 24, 2017

/s/ Marianne DeRosa  
Marianne DeRosa, Trustee

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X Chapter 13 Case No: 115-45600-NHL  
IN RE:

JOHN MARTIN,

CERTIFICATE OF SERVICE  
BY MAIL

Debtor.

-----X

This is to certify that I, DANI M. BOYER, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

JOHN MARTIN  
191-20 109th AVENUE  
ST. ALBANS, NY 11412

NORMA E. ORTIZ, ESQ.  
32-72 STEINWAY STREET, STE 402  
ASTORIA, NY 11103

SYNCHRONY BANK  
C/O RECOVERY MGMT SYSTEMS  
25 SE 2<sup>ND</sup> AVENUE, STE 1120  
MIAMI, FL 33131

PNC BANK, NA  
C/O MCCABE, WEISBERG & CONWAY, PC  
145 HUGUENOT STREET, STE 210  
NEW ROCHELLE, NY 10801

This January 24, 2017

/s/DANI M. BOYER  
DANI M. BOYER, Paralegal  
Office of the Standing Chapter 13 Trustee  
Marianne DeRosa, Esq.  
125 Jericho Tpke, Suite 105  
Jericho, New York 11753  
(516) 622-1340

Index No: 115-45600-NHL  
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IN RE:

JOHN MARTIN,

Debtor.

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NOTICE OF MOTION, APPLICATION  
and  
CERTIFICATE OF SERVICE

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MARIANNE DeROSA, TRUSTEE  
125 JERICHO TPKE, SUITE 105  
JERICHO, NEW YORK 11753  
(516) 622-1340

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